

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :2073 of 2007

DATED: 06-02-2007

Kanaparthi Bhuvaneshwari.

..... PETITIONER

AND

The Station House Officer,
Shadnagar Police Station,
Gunj Road,
Shadnagar & 4 others.

.....RESPONDENTS

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ORDER:
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Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. The case of the petitioner is that her husband-K.Ramachary died in the road accident on 02-11-2006 which occurred due to the negligence of the driver of the lorry bearing No.TN-608244 at about 10.30 to 11.00 p.m., while he and his friend were proceeding on his scooter bearing No.AP-10K-5367 towards Shadnagar from Hyderabad and when they reached in front of A-1 dhaba, Farooqnagar, their scooter dashed the said stationed lorry. It is stated that her husband failed to notice the stationed lorry which was parked in front of the Dhaba and the driver of the said lorry parked the same without proper indications, parking lights, radium stickers, and went into the dhaba for dinner and therefore the accident occurred due to fault of the driver of the said lorry and not due to the fault of her husband. A case has been registered in Cr.No.528 of 2006 under Section 304-A and 337 IPC against her deceased husband instead of registering the same against the driver of the said lorry. It is stated that the petitioner filed a written representation on 16-11-2006 before the Station House Officer, Shadnagar police station, stating that the said criminal case was erroneously registered against her

husband instead of registering against the driver of the lorry and there is evidence that goes to show that the said lorry was wrongly parked and the fault is attributable to the driver of the lorry only but not to her husband. It is further stated that on the said written representation, crime against the driver has not been investigated and therefore she seeks a writ of mandamus declaring the action of the respondents 1 and 4 in not investigating the Cr.No.528 of 2006 of Shadnagar police station in accordance with law, as illegal and arbitrary, and to direct the 1st respondent herein to investigate the said crime in the light of the statements of the witnesses and file chargesheet.

3. I am of the opinion that if the criminal case has been erroneously registered against the husband of the petitioner, the petitioner is not remediless. Based on the written representation filed by the petitioner if no crime is registered by the Station House Officer it is always open for the petitioner to file a complaint under Section 200 r/w 190 Cr.P.C. before the concerned Magistrate seeking taking appropriate action. In respect of the same offence there can be a police report as well as a complaint as contemplated under Section 210 Cr.P.C. In view of the aforesaid remedy available to the petitioner I am not inclined to entertain this writ petition.

4. Accordingly, this writ petition is dismissed. No order as to costs.

V.ESWARAIAH,J

06th February,2007.
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